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STATE OF WISCONSIN
BEFORE THE ACCOUNTING EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DENNIS L. FARR,
RESPONDENT.

FINAL DECISION
AND ORDER

(Case No. LS 9607161 ACC)

The parties in this matter under sec. 227.44, Stats., and for purposes of review under sec. 227.53, Stats., are:

Dennis L. Farr
736 Third Street
Baraboo, WI 53913

Accounting Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

This matter was commenced by the filing of a Notice of Hearing and Complaint on July 16, 1996. The hearing was held on March 18, 1997 and May 12, 1997. The respondent, Dennis L. Farr, appeared without legal counsel. Appearing for the complainant, Division of Enforcement, was Attorney Steven M. Gloe. Transcripts for each day of the hearing were prepared, the last of which was received on June 17, 1997.

The administrative law judge filed his *Proposed Decision* on November 18, 1997. Mr. Farr filed *Judicial Notice, Affidavit, and Motions, and First Objections*, dated December 17, 1997. Mr. Gloe filed *Complainant's Objections to Proposed Decision*, dated December 18, 1997. Mr. Gloe filed *Complainant's Response to Respondent's Objections to Proposed Decision*, dated December 22, 1997. Mr. Farr filed a *Continued Special Appearance*, dated December 28, 1997.

Based upon the entire record herein, the Accounting Examining Board makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. The respondent, Dennis L. Farr, is a Certified Public Accountant licensed in the state of Wisconsin under license number 5424.
2. On June 27, 1995, following a jury trial, Mr. Farr was convicted of two felony counts of Threats of Injure or Accuse of Crime, the sentencing provisions of which were increased by findings of his Use of a Dangerous Weapon in the commission of the offenses.
3. On September 15, 1995, following his "Alford" pleas of No Contest, Mr. Farr was convicted of one felony count of Communicating with Jurors and one felony count of Bail Jumping.
4. As of May 12, 1997, the last hearing date in these matters, Mr. Farr was appealing his criminal convictions.

CONCLUSIONS OF LAW

- I. The Accounting Examining Board is the legal authority responsible for issuing and controlling credentials for Certified Public Accountants, under ch. 442, Stats. The Accounting Examining Board has personal jurisdiction over Dennis L. Farr, based on his holding a credential issued by the board and based on his receiving notice of the action.
- II. The Accounting Examining Board has jurisdiction over the subject-matter of a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., and Ch. Accy 1, Wis. Admin. Code.
- III. Mr. Farr's convictions in Findings of Fact 2 are not substantially related to the practice of accounting.
- IV. Mr. Farr's convictions in Findings of Fact 3 are substantially related to the practice of accounting, they constitute acts discreditable to the profession under sec. Accy 1.401(2)(b), Wis. Admin. Code, and they form the basis for the imposition of discipline, under sec. 442.12(2), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the certificate as a Certified Public Accountant issued to the respondent, Dennis L. Farr, is SUSPENDED for a period of at least one year commencing on the date of this Final Decision and lasting until respondent submits

evidence satisfactory to the Accounting Examining Board that respondent is rehabilitated. Respondent shall have the burden of submitting satisfactory evidence of rehabilitation. To be considered by the Board, evidence of rehabilitation submitted by respondent must include:

1. Reports from respondent's probation and parole officer to the Accounting Examining Board showing that respondent has complied with all terms and conditions of any criminal probation or parole;
2. Reports evaluating respondent's work performance from all employers who have employed respondent subsequent to his release from incarceration; and,
3. Evidence that respondent has completed counseling or coursework in anger management approved by the Accounting Examining Board. Respondent shall submit requests for approval of counseling or coursework in anger management at least 30 days prior to the time of the counseling or coursework.

Evidence of rehabilitation may include character references from co-workers and others.

IT IS FURTHER ORDERED that respondent Dennis Farr shall pay one-half of the costs of this proceeding, pursuant to sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code, and that respondent shall pay these costs prior to reinstatement of his certificate.

The Division of Enforcement and administrative law judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

EXPLANATION OF VARIANCE

The Accounting Examining Board adopts the Findings of Fact and Conclusions of Law in Proposed Decision No. LS-9607161-ACC, but modifies the order proposed by the administrative law judge. The Board modifies the order recommended by the administrative law judge in the following respects:

1. Suspension of respondent's certificate is for at least one year from the date of this order. The Proposed Decision would have permitted respondent to immediately petition for reinstatement of his certificate after release from incarceration which, in fact, has already occurred.
2. The order proposed in Proposed Decision No. LS-9607161-ACC refers generally to respondent's having to provide "proof of rehabilitation" for reinstatement of his certificate. The Board's order specifically identifies, for respondent's benefit in part, the

proof that must be submitted by the respondent before the Board will consider whether respondent has been rehabilitated.

3. The Board's order requires that respondent pay one-half of the costs of this proceeding prior to reinstatement instead of within 180 days of the order, as is proposed. The Board's order removes the condition that if costs are not paid within 180 days of the order, respondent's certificate is to be summarily suspended.

Proposed Decision No. LS-9607161-ACC is modified for the following reasons:

In 1995, respondent was convicted of four felonies. Two were for "threats to injure or accuse of crime", sec. 943.30, Stats. (with sentencing enhanced because of his use of a dangerous weapon under sec. 939.63, Stats.), and one each for "communicating with jurors," sec. 946.64, Stats. and "bail jumping," sec. 946.49, Stats. Respondent's convictions for communicating with jurors and bail jumping are substantially related to the practice of accounting, under the rationale employed by the administrative law judge, and constitute acts discreditable to the profession under sec. Accy 1.401 (2) (b), Wis. Admin. Code. Accordingly, they form the basis for the imposition of discipline, under sec. 442.12 (2), Stats. The other convictions, while found not substantially related to professional practice in the specific circumstances of this case, are nevertheless, inconsistent with the practice of a certified public accountant.

In establishing appropriate discipline in this proceeding, the interrelated purposes for applying disciplinary measures are: 1) to promote the rehabilitation of the licensee, 2) to protect the public, and 3) deter other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

In reviewing the entire record here, the Board views the discipline recommended by the administrative law judge as inadequate for the purposes of protection of the public, deterrence of similar conduct by this licensee and others in the profession, and this licensee's rehabilitation. Given the serious disrespect for law represented by the substantially related convictions in this case, as well as the fact of prior discipline having been imposed by the Board upon respondent for practice after expiration of his license to practice, a definite one-year period of minimum suspension is included in the order. This will provide respondent with adequate opportunity to convincingly establish his rehabilitation, by developing a record of living successfully outside of prison. The suspension will also impress upon other licensees and the public that serious consequences will result from such misconduct.

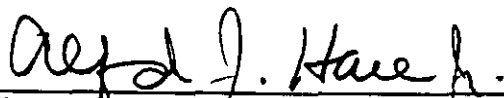
Additionally, the proposed order was indefinite as to setting specific, objective means by which respondent must establish his rehabilitation. The Board's order identifies specific requirements for showing rehabilitation, including the necessity that respondent receive counseling or training in anger management, a requirement that is warranted by the nature of respondent's criminal

conduct and necessary to assure that when under stress respondent is able to control his anger, comply with the law and will not be a danger to public safety

Finally, the 180 day requirement for paying costs and the summary suspension provision in the proposed order are replaced with a requirement that costs be paid before reinstatement in order to comply with the requirements of sec. 440.22, Stats.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin this 28th day of May, 1998.



State of Wisconsin Accounting Examining Board
By: Alfred J. Hall Jr., Director,
Bureau of Business and Design Professions

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